

REMARKS

As indicated above, this is a Preliminary Amendment for the RCE filed herewith.

Claims 1 and 7 have been amended, and claim 8 has been added in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention.

At the outset, the applicant thanks the Examiner for now indicating that claims 3 - 5 would be allowable if rewritten in the manner suggested in the second full paragraph on page 4 of the outstanding Action.

However, as to the merits of this case, the remaining claims are rejected as follows:

(1) claims 1 and 7 stand rejected under 35 U.S.C. 102(e) as being anticipated by Masui (U.S. Patent No. 6,556,523); and

(2) claims 2 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Sugie (U.S. Patent No. 6,498,773).

The applicant respectfully requests reconsideration of these rejections.

The applicant's claimed invention, as now recited in independent claim 1, is directed to a recording clock signal generating apparatus located in an information recording device for recording information in a recording medium in which a wobbled information recording track and pre-pit formed thereon. The claimed recording clock signal generating apparatus, as now set forth in claim 1, includes a wobble signal detecting section for detecting a wobble signal; a pre-pit signal detecting section for detecting a pre-pit signal; and a phase comparing section for comparing a phase of the wobble signal to that of the pre-pit signal and outputting the phase difference. The claimed recording clock signal generating apparatus, as now set forth in claim 1, further includes a determining section for determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; a phase-shifting section for shifting a phase of the wobbled signal based on the phase difference only when the determining section determines that the pre-pit signal is not generated by the erroneous detection; and a clock signal generating section for generating a recording clock signal based on said phase-shifted wobble signal.

Significant claimed structural arrangements of the applicant's claimed invention, as now recited in independent claim 1, include the claimed determining section for determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; the claimed phase-shifting section for shifting a phase of the wobbled signal based on the phase difference only when the determining section determines that the pre-pit signal is not generated by the erroneous detection;

and the claimed clock signal generating section for generating a recording clock signal based on the phase-shifted wobble signal.

The applicant's claimed invention, as now recited in independent claim 7, is directed to a recording clock signal generating method for recording information in a recording medium in which a wobbled information recording track and a pre-pit formed thereon. The claimed recording clock signal generating method, as now set forth in independent claim 7, includes the steps of detecting a wobble signal; detecting a pre-pit signal; and comparing a phase of the wobble signal to that of the pre-pit signal and outputting the phase difference. The claimed recording clock signal generating method, as now set forth in independent claim 7, further includes the steps of determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; and shifting a phase of the wobble signal based on the phase difference only when it is determined that the pre-pit signal is not generated by the erroneous detection. Also in claim 7 is a clock signal generating step of generating a recording clock signal based on the phase-shifted wobble signal.

Significant features of the applicant's claimed invention, as now set forth in independent claim 7, include the steps of determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; and shifting a phase of the wobble signal based on the phase difference only when it is determined that the pre-pit signal is not generated by the erroneous detection. Also a significant feature of the claimed invention, as set forth in claim 7, is a clock

signal generating step of generating a recording clock signal based on the phase-shifted wobble signal.

In other words, the claims have been amended in order to highlight that the claimed recording clock signal generating apparatus (or claimed method) includes a determining section (step) for determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; and a phase-shifting section (step) for shifting a phase of the wobbled signal based on the phase difference only when the determining section determines that the pre-pit signal is not generated by the erroneous detection.

The Japanese Patent Laid-Open Publication No. Hei 10-293926 mentioned in the cited portion of Masui is merely concerned with adjusting the clock signal based on comparison of phases of the wobble signal and the pre-pit signal. Such structural arrangement or feature is similar to what is described as related art in the applicant's specification, and does not expect abnormal signal caused on account of defect on discs or the like. The cited reference, however, does not disclose, expressed or implied, the significant claimed structural arrangements or features of the applicant's claimed invention, which include the determining section (step) for determining whether the pre-pit signal is generated by erroneous detection of the pre-pit or not; and clock signal generating section (step) for generating a recording clock signal based on phase difference only when the determining section determines that the pre-pit signal is not generated by the erroneous detection.

In view of the above, not all of the claimed elements or features, as now recited in independent claim 1 or 7, are found in exactly the same situation and united in the same way to perform the identical function in Masui's device or process. Thus, there can be no anticipation under 35 U.S.C. 102(e) of the applicant's claimed invention based on the teachings of the Masui patent.

Accordingly, the withdrawal of the outstanding anticipation rejection under 35 U.S.C. 102(e) based on Masui (U.S. Patent No. 6,556,523) is in order, and is therefore respectfully solicited.

As to the outstanding obviousness rejection, the secondary reference of Sugie is narrowly relied upon for teaching:

a control section for controlling said phase-sifting section when said difference is within a threshold width value set for the phase difference in the past,¹

a teaching which is, according to the Examiner, lacking in the primary reference of Masui. Thus, even if *arguendo* the teachings of Sugie can be combined with the teachings of Masui, in the manner suggested by the Examiner, such combined teachings would still fall far short in fully meeting the applicant's claimed invention, as now set forth in independent claim 1 from which claims 2 and 6 depend. Thus, a person of ordinary skill in the art would not have found the applicant's claimed invention, as set forth in claims 2 and 6, obvious under 35 U.S.C. 103(a) based on the teachings of

¹ See, the third full paragraph, page 3 of the outstanding Action.

Masui and Sugie, singly or in combination.

In view of the above, the withdrawal of the outstanding obviousness rejection under 35 U.S.C. 103(a) based on Masui in view of Sugie (U.S. Patent No. 6,498,773) is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,
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